

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**DAVID ANTHONY TOFFLEMIRE**

**PLAINTIFF**

**V.**

**NO. 4:08CV142-A-D**

**MARCUS FULLWILEY, et al.**

**DEFENDANTS**

**FINAL JUDGMENT AS TO CERTAIN DEFENDANTS**

On consideration of the file and records in this action, pursuant to 28 U.S.C. §636(b)(1)(B), an evidentiary hearing having been conducted on March 5, 2009, by the Magistrate Judge pursuant to 28 U.S.C. §636(b)(1)(B), and Spears v. McCotter, 766 F.2d 179 (5 Cir. 1985); the Court finds that the Report and Recommendation of the United States Magistrate Judge dated March 9, 2009, was on that date duly served by first class mail upon plaintiff and the attorneys of record for the defendants; that more than ten days have elapsed since service of said Report and Recommendation; and that no objection thereto has been filed or served by said parties. The Court is of the opinion that the Report and Recommendation should be approved and adopted as the opinion of the Court.

It is, therefore

**ORDERED:**

1. That the Report and Recommendation of the United States Magistrate Judge dated March 9, 2009, be, and it is hereby, approved and adopted, and that the proposed findings of fact and conclusions of law therein set out be, and they are hereby, adopted as the findings of fact and conclusions of law of the Court.
2. That this case be and hereby is **dismissed with prejudice** as to Defendants Epps, Kelly, Petrie and Harris.

THIS, the 9<sup>th</sup> day of April, 2009.

/s/ Sharion Aycock  
**UNITED STATES DISTRICT JUDGE**